IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

WEDNESDAY, THE NINETEENTH DAY OF JULY
TWO THOUSAND AND SIX

PRESENT

THE HON'BLE MR JUSTICE J.CHELAMESWAR

WRIT PETITION No.22074 OF 1995

Between:

M/s.Balaji Wines, Yellendu,
Rep. by its Pro. V.Chakrapani.

..... PETITIONER

AND

The Superintendent of Excise & Prohibition,
Khammam, Khammam District
And others.

....RESPONDENTS

THE HON'BLE MR JUSTICE
J.CHELAMESWAR

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O R D E R

The petitioner was a F.L.24 licensee under the A.P. Excise Act, 1968 for the year 1994-1995. Under the terms of licence, the petitioner was required to pay an amount of Rs.1,25,000/- for the period of licence to the State represented by the 1st respondent herein. According to the Rule then in force, the said amount of Rs.1,25,000/- was required to be paid in four equal instalments and the first instalment was required to be paid in cash on the grant of licence. For ensuring the proper payment of the balance amount in accordance with the Rules, the licencee had to furnish a bank guarantee for the balance amount for three quarters, the details of which may not be necessary for the present purpose. The 2nd petitioner held certain fixed deposits with the 3rd respondent bank herein. The 1st petitioner approached the 3rd respondent bank for securing the bank guarantee, referred to earlier and the

3rd respondent bank agreed to furnish such a guarantee on condition the 2nd petitioner undertakes to give the fixed deposits held by him in the 3rd respondent bank as collateral security. The 2nd petitioner approached the 3rd respondent bank to give a bank guarantee to the 1st petitioner thereby undertaking to pay the balance of the licence fee in case any default on the part of the 1st petitioner.

While the matter stood thus, during the course of the licence period, the State of Andhra Pradesh imposed a ban on the sale of liquor and consequentially, all the existing licences including the petitioners' licence stood revoked as a consequence of which the 1st respondent, after collecting the amounts due from the 1st petitioner

with respect to the period during which the 1st petitioner carried on the business, returned the bank guarantee as no more amount was due from the petitioners. Thereupon, the 2nd petitioner approached the 3rd respondent bank to relieve him from the obligation of the collateral security and make the payments relating to fixed deposits held by him in the 3rd respondent bank. The said request of the 2nd petitioner was not accepted by the 3rd respondent bank. It appears that the petitioners were informed orally that as there were certain arrears of sales tax to be paid by the 1st petitioner, the fixed deposits of the 2nd petitioner could not be encashed. Aggrieved by the same, the present writ petition is filed with a prayer as follows:

> "... Hon'ble Court may be pleased to issue a writ, order or direction, particularly one in the nature of Writ of Mandamus, directing the 3rd respondent herein to return the fixed deposit No.106547 for an amount of Rs.33,980/- to the petitioner No.2 herein by declaring the action of the 3rd respondent in refusing to release the said fixed deposit to the 2nd petitioner as illegal, arbitrary and pass ..."

The writ petition is pending for more than a decade in this Court. All the respondents are served. Neither the 2nd respondent nor the 3rd respondent has chosen to file any counter nor is there any appearance on behalf of the said respondents when the writ petition is taken up.

The learned Government Pleader appearing for the 1st respondent made a categoric statement that the 1st respondent has no claim against the petitioners any more and the fact that the bank guarantee furnished by the petitioners was duly returned is also not in dispute.

In the circumstances, the writ petition is allowed as prayed for.

JUSTICE J.CHELAMESWAR

19th JULY, 2006
PGS

THE HON'BLE MR JUSTICE
J.CHELAMESWAR

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